

**NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.** See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

**FILED BY CLERK**  
**JULY 21 2009**  
COURT OF APPEALS  
DIVISION TWO

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

THE STATE OF ARIZONA,	)	
	)	2 CA-CR 2008-0401-PR
	)	2 CA-CR 2008-0404-PR
Respondent,	)	2 CA-CR 2008-0430-PR
	)	2 CA-CR 2009-0049-PR
v.	)	(Consolidated)
	)	DEPARTMENT B
RONALD LESLIE MURRAY,	)	
	)	<u>MEMORANDUM DECISION</u>
Petitioner.	)	Not for Publication
	)	Rule 111, Rules of
	)	the Supreme Court

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF COCHISE COUNTY

Cause Nos. CR8900193 and CR8900242

Honorable Stephen M. Desens, Judge

REVIEW GRANTED; RELIEF DENIED

Ronald Leslie Murray

Florence  
In Propria Persona

V Á S Q U E Z, Judge.

¶1 In 1989, petitioner Ronald Murray was convicted after a jury trial of kidnapping, sexual assault, robbery, and two counts of theft by control. The trial court sentenced Murray to an aggravated prison term of twenty-one years for sexual assault, to be

served concurrently with aggravated terms of eight years for robbery and fifteen years each for the theft counts, to be followed by an aggravated, twenty-one-year term for kidnapping. After filing a direct appeal and no less than seven petitions for review of the trial court's denial of post-conviction relief,<sup>1</sup> Murray filed the four underlying petitions for post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P. The trial court summarily dismissed Murray's petitions below, after which he filed the four petitions for review now before us.<sup>2</sup> We will not disturb a trial court's ruling on a petition for post-conviction relief absent an abuse of discretion. *State v. Watton*, 164 Ariz. 323, 325, 793 P.2d 80, 82 (1990). We find no abuse here.

¶2 In his petitions for review, Murray contends the trial court abused its discretion in denying relief on the following claims: based on *State v. Donald*, 198 Ariz. 406, 10 P.3d 1193 (App. 2000), trial counsel was ineffective in failing adequately to inform Murray about the sentencing consequences of the state's plea offer; the imposition of aggravated sentences, based on facts found by the judge rather than the jury was unlawful; "the trial was not capable of producing valid, reliable results, with no adequacy in the method used by misconduct of the prosecutor, is a miscarriage of justice, fundamental error"; and the imposition of consecutive sentences was illegal under *State v. Gordon*, 161 Ariz. 308, 778 P.2d 1204 (1989), a claim Murray contends is of sufficient constitutional magnitude to

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<sup>1</sup>The Arizona Supreme Court vacated that portion of one of our decisions dealing with parole eligibility under *State v. Tarango*, 185 Ariz. 208, 914 P.2d 1300 (1996). *State v. Murray*, 194 Ariz. 373, ¶ 10, 982 P.2d 1287, 1289 (1999).

<sup>2</sup>We consolidated the petitions for review.

require a personal waiver before it may be deemed waived by his failure to raise it previously and, therefore, precluded. The trial court denied relief in two minute entry orders, finding Murray’s claims were precluded, none of the exceptions under Rule 32.2(b) applied, and there were “no claims, remaining or otherwise, which present a material issue of fact or law which would entitle [Murray] to relief under Rule 32.”

¶3 Because all of Murray’s claims were either adjudicated on the merits in prior proceedings or waived by his failure to raise them on appeal or in any previous collateral proceeding, the trial court correctly found the claims precluded and properly dismissed his petitions. *See* Ariz. R. Crim. P. 32.2(a)(2), (3). And nothing in the petitions for review establishes that Rule 32.2 is inapplicable or that Murray should be excused from its preclusive effect. Nor has Murray raised a claim of sufficient constitutional magnitude requiring a personal waiver to avoid preclusion. *See State v. Swoopes*, 216 Ariz. 390, ¶ 28, 166 P.3d 945, 954 (App. 2007). Accordingly, although the petitions for review are granted, relief is denied.

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GARYE L. VÁSQUEZ, Judge

CONCURRING:

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JOSEPH W. HOWARD, Chief Judge

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J. WILLIAM BRAMMER, JR., Judge